

REMARKS

Claims 1, 3-12, 40-42, 45-50, and 52-54 are pending in the application. Claims 1, 40, and 54 have been amended, support for which can be found at least at page 29, line 12 – page 32, line 9 of the Specification. The Applicants thank the Examiner for the indication of allowance of claims 46-50. Hence, claims 1, 3-12, 50, and 52-54 are at issue in this response.

Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-17 of co-pending Application Number 10/763,534. This provisional rejection will be addressed should claim 1 be allowed.

Claims 1, 3-12, 40-42, 45, and 52-54 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,698,333 to Halliday et al. (hereinafter “Halliday”) in view of U.S. Patent No. 4,925,683 to Fischbach et al. (hereinafter “Fischbach”). The Applicants respectfully traverse this rejection.

With regard to independent claim 1, the applied references fail to disclose a cartridge wherein “an annular bowl is disposed in the cartridge and has feed apertures to permit the liquid chocolate ingredient to drip into a beverage flow path to hold back a proportion of the liquid chocolate ingredient and release it into a liquid stream flow path extending toward the outlet” as presently recited in claim 1. Therefore, the Applicants respectfully request that the rejection as to claim 1 be withdrawn and further submit that claims 2-12, 45, 52, and 53, dependent therefrom, are allowable as well.

With regard to independent claim 40, the applied references fail to disclose a cartridge wherein “an annular bowl is disposed in the cartridge and surrounds a central discharge spout having the outlet of the cartridge at one end” as presently recited in claim 40. Therefore, the Applicants respectfully request that the rejection as to claim 40 be withdrawn and further submit that claims 41 and 42, dependent therefrom, are allowable as well.

With regard to independent claim 54, the applied references fail to disclose a cartridge wherein “an annular bowl is disposed in the cartridge and has an opening facing away from a

Application No. 10/763,680
AMENDMENT dated May 26, 2009
Reply to Office Action of February 26, 2009

beverage flow path upstream of the outlet" as presently recited in claim 54. Therefore, the Applicants respectfully request that the rejection as to claim 54 be withdrawn.

The Applicants respectfully request reconsideration and allowance of all pending claims.

The Commissioner is hereby authorized to charge any additional fees which may be required with respect to this communication, or credit any overpayment, to Deposit Account No. 06-1135.

Respectfully submitted,
FITCH, EVEN, TABIN & FLANNERY

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